

PT 02-64

Tax Type: Property Tax

Issue: Charitable Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS**

**ILLINOIS DISTRICT OF
AMERICAN TURNERS,
APPLICANT,**

v.

**DEPARTMENT OF REVENUE
OF THE STATE OF ILLINOIS**

Nos.	01-PT-0052
	(00-56-0153)
	(00-56-0157)
	(00-56-0158)
	02-PT-0043
	(01-56-0164)
	(01-56-0165)
	(01-56-0166)
P.I.N.S:	19-24-328-001-0040
	19-24-376-001-0060
	19-24-327-005-0040

RECOMMENDATION FOR DISPOSITION

APPEARANCES: Ms. Sandra Kerrick of Caldwell, Berner & Caldwell on behalf of the Illinois District of American Turners (the “Applicant”); Mr. David Stone, Assistant State’s Attorney for the County of McHenry, on behalf of the McHenry County Board of Review (the “Board”); Mr. Scott E. Nemanich of Hinshaw & Culbertson on behalf of Community Unit School District 300 (the “Intervenor”); Mr. John Alshuler, Special Assistant Attorney General, on behalf of the Illinois Department of Revenue (the “Department”).

SYNOPSIS: These consolidated proceedings raise the following issues: (1), whether applicant qualifies as an “institution of public charity” within the meaning of 35 ILCS 200/15-65(a); (2) whether real estate identified by McHenry County Parcel Index Numbers 19-24-328-001-0040, 19-24-376-001-0060 and 19-24-327-005-0040 (collectively referred to as the "subject property") were “actually and exclusively used for

charitable or beneficent purposes,” as required by 35 **ILCS** 200/15-65 during any part of the 2000 and 2001 assessment years; and, (3) whether the subject property was owned by the type of entity whose property qualifies for exemption under 35 **ILCS** 200/15-65(c) during the 2000 and 2001 assessment years. The underlying controversies arise as follows:

Applicant filed two separate Applications for Property Tax Exemption, one pertaining to the 2000 assessment year, the other pertaining to the 2001 assessment year, with the Board. The Intervenor, Community Unit School District 300, filed appropriate Requests to Intervene with the Board as to both applications.

The Board first reviewed the exemption application for 2000 and recommended to the Department that the requested exemption be denied. It then reviewed the 2001 application and recommended that “no action” be taken on this application because the 2000 application was still pending before the Department.

The Department issued its initial determinations¹ denying the 2000 exemption application on March 29, 2001. These determinations found that each of the three subject properties was not in exempt ownership and not in exempt use. Applicant filed timely requests for hearing as to all of these denials and later presented evidence at an evidentiary hearing, at which the Board, Intervenor and Department also appeared.

The Department issued its initial determinations denying the 2001 exemption shortly before this appeal was heard. These determinations also found that each of the three subject properties was not in exempt ownership and not in exempt use. Applicant filed timely requests for hearing as to each of these denials but later waived its right to

1. The Department issued individual determinations on each of the three subject properties. Dept. Group Ex. No. 1.

hearing thereon under terms of a stipulation filed with the Office of Administrative Hearings on September 26, 2002.

On October 2, 2002, I entered an Order effectuating this stipulation by consolidating both the 2000 and 2001 exemption applications for purposes of disposition by the Office of Administrative Hearings.

After careful review of the record pertaining to the 2000 exemption application, and in accordance with that portion of the parties' stipulation wherein they agreed that "the applicable evidence and law is the same" for both of the tax years currently at issue, I recommend that all of the Department's initial determinations herein be affirmed.

FINDINGS OF FACT:

A. Preliminary Considerations

1. The Department's jurisdiction over these matters and its positions herein are established by the admission of Dept. Group Ex. No. 1.
2. The Department's position in these matters is that the subject property is not in exempt ownership and not in exempt use. Dept. Group Ex. No. 1.
3. The subject property is located in Algonquin, IL and improved with a campsite that includes 281 cabins, as well a pool, an athletic field and other ancillary facilities. *Id*; Applicant Ex. No. 6; Board Ex. No. 1.

B. Applicant's Organizational and Financial Structure

4. Applicant is an Illinois not-for profit corporation affiliated with the American Turners (the "Turners"), a federation of societies located throughout the United States and Canada that "is organized to promote health and physical

education, cultural education, and rational thinking in order to advance the health, happiness and progress of mankind.” Applicant Ex. Nos. 2, 5.

5. The Turners and their affiliates are exempt from federal income tax, under Section 501(c)(3) of the Internal Revenue Code, pursuant to a determination issued by the Internal Revenue Service in June of 1953. Applicant Ex. Nos. 3A, 3B.
6. Applicant is obliged to abide by the Turners’ primary organizational document, the Principles and Statutes, as a condition of its affiliation with the Turners. Applicant Ex. No. 2.
7. The Turners’ Principles and Statutes provide, *inter alia*, that: (a) anyone seeking membership must be at least 18 years old and submit to a probationary period of four weeks; (b) those admitted to membership in the Turners shall enjoy membership privileges that include: (i) the use of gymnasiums and other facilities operated by the Turners; and, (ii) the right to participate in various athletic competitions sponsored by the Turners; and, (c) the Turners “will award scholarships to qualified members or class members of Turner organizations affiliated with the American Turners and also provide financial assistance to train Turner instructors.” Applicant Ex. No. 2.
8. Applicant’s federal income tax returns indicate that it obtained revenue from the following sources, and incurred the following expenses, during the period October 1, 1998 through September 30, 2000:

REVENUES	10/1/98-9/30/99	10/1/98-9/30/00	TOTAL	% OF TOTAL²
Source				
Program Service Revenues (Pool) ³	\$ 10,645.00	\$ 9,822.00	\$ 20,467.00	5%
Membership Dues & Assessments	\$ 5,002.00	\$ 7,370.00	\$ 12,372.00	3%
Dividends & Interest	\$ 21,311.00	\$ 17,977.00	\$ 39,288.00	10%
Net Rentals from Cabins	\$ 118,903.00	\$ 135,656.00	\$ 254,559.00	66%
Special Events & Activities	\$ 1,100.00	\$ 1,993.00	\$ 3,093.00	1%
Gross Profit From Sale of Inventory	\$ 14,449.00	\$ 13,669.00	\$ 28,118.00	7%
Other Revenue	\$ 13,909.00	\$ 12,754.00	\$ 26,663.00	7%
Total	\$ 185,319.00	\$ 199,241.00	\$ 384,560.00	100%
EXPENSES				
Program Services				
Salaries & Wages	\$ 43,435.00	\$ 45,433.00	\$ 88,868.00	18%
Payroll Taxes	\$ 4,033.00	\$ 4,081.00	\$ 8,114.00	2%
Accounting Fees	\$ 5,400.00	\$ 4,312.00	\$ 9,712.00	2%
Legal Fees	\$ 97,559.00	\$ 10,033.00	\$ 107,592.00	22%
Supplies	\$ 9,167.00	\$ 10,143.00	\$ 19,310.00	4%
Telephone	\$ 1,604.00	\$ 2,220.00	\$ 3,824.00	1%
Equipment Rental & Maintenance	\$ 38,642.00	\$ 27,129.00	\$ 65,771.00	14%

2. All percentages shown herein are approximations derived by dividing the amounts shown in the relevant category by the total revenues or expenses shown on the relevant line of the fourth column. Thus, \$20,467.00 / \$384,560.00 = 0.05322 (rounded four places past the decimal) or 5%

3. See, Finding of Fact 17, *infra*.

Conferences & Meetings	\$ 111.00	\$ 290.00	\$ 401.00	0%
Depreciation	\$ 26,895.00	\$ 27,353.00	\$ 54,248.00	11%
Insurance	\$ 8,880.00	\$ 11,009.00	\$ 19,889.00	4%
Utilities	\$ 14,770.00	\$ 13,690.00	\$ 28,460.00	6%
Real Estate Taxes	\$ 35,536.00	\$ 38,953.00	\$ 74,489.00	15%
Income Taxes	\$ 705.00	\$ 685.00	\$ 1,390.00	0%
Miscellaneous	\$ 4,783.00	\$ 81.00	\$ 4,864.00	1%
Total	\$ 291,520.00	\$ 195,412.00	\$486,932. 00	

Id.

C. Applicant's Ownership and Use of the Subject Property

9. Applicant acquired ownership of the subject property, which consists of three separate yet contiguous parcels, via a series of transactions that occurred between 1919 and 1968.⁴ Applicant Ex. No. 7; Board Ex. No. 1.

10. The subject property is commonly known as the "Illinois Turner Camp" and consists of a 110 acre campsite. Applicant Ex. No. 6; Board Ex. No. 1.

11. The campsite is: (a) identified by a sign denoting it as "The Illinois Turner Camp and private[;]" (b) accessible by a road entrance that ends at a gatehouse staffed by volunteer members who collect parking fees and provide information; (c) closed between November 1 and May 1 of each year, and, (d) divided between the following improved and unimproved areas:

4. The Board, Intervenor and Department do not dispute that applicant owned the subject property throughout both of the tax years in question. They do, however, dispute that: (a) applicant qualifies as an "institution of public charity" within the meaning of 35 ILCS 200/15-65(a); and, (b) the subject property was "actually and exclusively used for charitable or beneficent purposes," as required by 35 ILCS 200/15-65, during the 2000 and 2001 tax years. Tr. p. 140.

AREA	SIZE	IMPROVEMENTS
Improved	70 Acres	<ul style="list-style-type: none"> Wood and Parkland improved with: (a) 281 cabins; (b) ancillary buildings, such as a field house; (c) a swimming pool; and, (d) other athletic facilities that include baseball/softball diamonds, an athletic field, a half court basketball court, as well as tennis and volleyball courts
Unimproved	40 Acres	<ul style="list-style-type: none"> Unimproved woodland used for hiking
Total	110 Acres	<ul style="list-style-type: none"> N/A

Applicant Ex. No. 1; Tr. pp. 53-54, 60, 85.

12. 267 of the 281 the cabins (or 95%) are owned by individual Turner members; the remaining 14 cabins (or 5%) are owned by the camp itself and available for rental, but only to applicant's members. Board Ex. No. 1.

13. Every privately owned cabin is subject to an individualized lease agreement between applicant and the owner. Each lease agreement runs for a period of one year and provides, *inter alia*, that: (a) the owner shall pay applicant a certain annual sum certain as rent for the cabin;⁵ (b) such sum shall be payable on or before October 1; (c) applicant's acceptance of the timely rental payment shall renew the lease for one year; (d) the individual owner may sublease the cabin, but only to another member of the Illinois District of American Turners; and, (e) applicant shall have the right to cancel the

5. The rental amounts, which applicant refers to as "ground lease fees," ranged between \$500.00 and 900.00 per year during the 2000 and 2001 tax years. Tr. p. 62.

agreement and retake possession of the cabin in the event that the owner breaches any covenant, term or condition of the lease. Board Ex. No. 4.

14. Applicant determines the rental for each cabin based on a pro-rata estimate of the revenues that it will need to cover its operating deficit. Tr. pp. 61, 75-76.
15. The Rules and Regulations governing use of the subject property expressly state that:

The privileges of the Illinois District Turner Camp are limited to members of the Illinois District of American Turners, their immediate family, the Ladies Auxiliary and visiting Turners. All guests have member's privileges so long as the host member is in the Camp.

Board Ex. No. 1.

16. The Rules and Regulations further state, *inter alia*, that: (a) one must be a member in good standing of a society within the Illinois District of American Turners for a minimum of three years in order to own private cottage at the subject property; (b) the camp-owned cottages are available for rental, but only to applicant's members; (c) all non-member guests may stay in private cottages so long as the host member is present in the cottage with the guest; and, (d) non-member guests should be made familiar with the philosophy and principles of the American Turners during their stay, and also, "should be encouraged to join an Illinois District Society, so as to enjoy all the privileges and benefits of the Illinois Turner Camp," while they are at the camp. *Id.*
17. Applicant provides members who rent private cabins, as well as their spouses and children under 18, with tags that permit them to use the pool facility. It

also sells pool passes to members who rent the camp-owned cottages, their families and all guests. *Id.*

18. Usage of the subject property was strictly limited to applicant's members and their guests throughout both of the tax years in question. Intervenor's Ex. No. 1; Tr. p. 78.

CONCLUSIONS OF LAW:

Article IX, Section 6 of the Illinois Constitution of 1970 provides as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

In furtherance of its Constitutional mandate, the General Assembly enacted Sections 15-65(a) and 15-65(c) of the Property Tax Code, 35 ILCS 200/1-1 *et seq.*, which provide as follows:

200/15-65. Charitable Purposes

§ 15-65. All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

- (a) institutions of public charity.⁶

- (c) old people's homes, facilities for persons with a developmental disability, and not-for-profit organiza-

6. By definition, "institutions of public charity" operate to benefit an indefinite number of people in a manner that persuades them to an educational or religious conviction that benefits their general welfare or otherwise reduce the burdens of government. Crerar v. Williams, 145 Ill. 625 (1893). They also: (1) have no capital stock or shareholders; (2) earn no profits or dividends, but rather, derive their funds mainly from public and private charity and hold such funds in trust for the objects and purposes expressed in their charters; (3) dispense charity to all who need and apply for it; (4) do not provide gain or profit in a private sense to any person connected with them; and, (5) do not appear to place obstacles of any character in the way of those who need and would avail themselves of the charitable benefits they dispense. Methodist Old People's Home v. Korzen, 39 Ill.2d 149, 156, 157 (1968).

tions providing services or facilities related to the goals of educational, social and physical development, if, upon making application for the exemption the applicant provides affirmative evidence that the home or facility or organization is an exempt organization under paragraph (3) of Section 501(c) of the Internal Revenue Code [26 U.S.C.A. Section 501] or its successor, and either: (i) the bylaws of the home or facility or not-for-profit organization provide for a waiver or reduction, based on an individual's ability to pay, of any entrance fee, assignment of assets, or fee for services, or, (ii) the home or facility is qualified, built, or financed under Section 202 of the National Housing Act of 1959, [12 U.S.C.A. Section 1701 *et seq.*] as amended.

35 ILCS 200/15-65(a), (c).

Property tax exemptions are inherently injurious to public funds because they impose lost revenue costs on taxing bodies and the overall tax base. In order to minimize the harmful effects of such lost revenue costs, and thereby preserve the constitutional and statutory limitations that protect the tax base, statutes conferring property tax exemptions are strictly construed, with all doubts and debatable questions resolved in favor of taxation. People Ex Rel. Nordland v. the Association of the Winnebago Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987). Accordingly, the economic benefits of property tax exemptions are reserved for those private entities that either: (1) primarily serve the public interest and welfare; or, (2) remove financial or other burdens from the State. DuPage County Board of Review v. Joint Comm'n on Accreditation of Healthcare Organizations, 274 Ill. App. 3d 461, 466 (2nd Dist. 1995); Washington Ethical Society v. District of Columbia, 249 F.2d 127, 129. (1957). Therefore, entities that provide community service or other public benefits, but only as incidental byproducts of serving

relatively narrower constituencies, do not qualify to receive these benefits. Rogers Park Post No. 108 v. Brenza, 8 Ill.2d 286 (1956); Morton Temple Association v. Department of Revenue, 158 Ill. App. 3d 794, 796 (3rd Dist. 1987).

Applicant argues that the subject property ought to receive the economic benefits of exempt status because the athletic and other related activities applicant offers at this property are similar in kind to those offered at facilities operated by conservation districts, park districts and public school boards. Such entities are, as applicant indicates, legislatively authorized to establish and maintain recreational facilities for public purposes consistent with their respective enabling statutes.⁷ However, the Intervenor correctly responds that applicant is not subject to these mandates because it is incorporated as a private enterprise. Tr. pp. 20-21. Therefore, applicant's attempt to compare its operations to those of duly constituted public entities, such as park districts, conservation districts and public school boards, is completely illusory. *Id.*

Applicant's purported comparisons also fail because it neither operates primarily in the public interest nor allows the public at large to make any use of the subject property. If applicant did operate the subject property for public purposes, then it would not employ a sign demarcating the entire campsite as "private" property. Tr. p. 85. Nor would it adhere to Rules and Regulations which state in no uncertain terms that "[t]he privileges of the Illinois District Turner Camp are *limited* to members of the Illinois

7. See, e.g. 70 ILCS 410/3, 12(c), 15.2 and 15.7 (Provisions of Conservation District Act, 70 ILCS 410/1, *et seq.*, that authorize conservation districts to acquire and maintain real estate for various publicly-oriented conservation purposes, including outdoor recreation). 70 ILCS 1205/5-2, 8-10, 9.25, 10-4 (Provisions of Park District Code, 70 ILCS 1205/1, *et seq.* that authorize park districts to acquire real estate for, and establish recreational programs at, public facilities subject to their respective jurisdictions); 105 ILCS 5/27-5, 5/27-7 and 5/27-9 (Provisions of the School Code, 105 ILCS 5/1-1, *et seq.*, that require duly constituted public school boards to provide for the physical education and training of all students that attend schools subject to their control).

District of American Turners, their immediate family, the Ladies Auxiliary and visiting Turners.” Board Ex. No. 1, (emphasis added); *See also*, Intervenor’s Ex. No. 1, p. 65.⁸ Although actual, and not intended, use is decisive for present purposes, (Skil Corporation v. Korzen, 32 Ill.2d 249 (1965)), the record contains ample evidence to support the conclusion that applicant’s actual use provides few, if any, benefits to the general public.

Fully 95% of the cabins situated on the subject property are owned and used by applicant’s members. While applicant’s camp does own the remaining 5%, applicant does not make any of these cabins available for public use. Nor does it permit anyone who is the guest of a member to stay in *any* of the cabins unless the member is present. (Board Ex. No. 1). Under these circumstances, I fail to see how anyone other than applicant’s members benefit from usage of the cabins.

It also bears noting that the majority of applicant’s income, 66%, comes from cabin rentals. Given that: (a) applicant derives no more than 10% of its total revenues from other sources; and, (b) applicant does not allow anyone other than its own members to use any of the cabins, I am inclined to agree with the Board that applicant operates the subject property more like a private condominium association than an “institution of public charity.” (Tr. p. 162).

8. Intervenor’s Exhibit 1 is an excerpt from the deposition of applicant’s president, Cheryl Bothfeld, wherein Ms. Bothfeld testifies as follows:

Q. [By Intervenor’s Counsel, Mr. Nemanich] Ok. The bottom line is, and correct me if I’m wrong, [the subject property is] not open to everyone from the outside to simply drive up and walk in?

A. Correct.

Intervenor’s Ex. No. 1, at p. 65. *See also*, Tr. p. 74.

Moreover, whatever public usage applicant effectuates by permitting members to entertain their guests at the subject property amounts to little more than recruitment for new membership. Applicant's operational Rules and Regulations clearly state that non-member guests should be made familiar with the philosophy and principles of the American Turners during their stay. Board Ex. No. 1. They further indicate that such guests "should be encouraged to join an Illinois District Society, so as to enjoy all the privileges and benefits of the Illinois Turner Camp," while they are at the camp. *Id.* In this respect, the subject property is similar to a commercial timeshare facility that offers short term promotional visits to attract new investors.

Based on the foregoing, I conclude that the "charitable" aspects of applicant's operations relative to its use of the subject property are highly suspect in the first instance and virtually non-existent in the second. Because all dubious matters that arise in exemption proceedings must be resolved in favor of taxation, (People Ex Rel. Nordland v. the Association of the Winnebago Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987)), I further conclude that the subject property was neither: (a) owned by an "institution of public charity[;]" nor, (b) "actually and exclusively used for charitable or beneficent purposes," as required by Section 15-65(a) of the Property Tax Code, throughout both of the tax years currently in question. Therefore, those portions of the Department's initial determinations that denied the subject property exemption from 2000 and 2001 real estate taxes under 35 ILCS 200/15-65(a) should be affirmed.

Most of the above discussion also applies to the Section 15-65(c) exemption, which applicant raises as an alternative basis for relief. This exemption is technically

distinct from the one contained in Section 15-65(a) in that the class of exempt owners consists of “old people's homes, facilities for persons with a developmental disability, and not-for-profit organizations providing services or facilities related to the goals of educational, social and physical development” (35 **ILCS** 200/15-65(c)), rather than “institutions of public charity.” (35 **ILCS** 200/15-65(a)).

This applicant is not a nursing home. Nor is it a facility for persons with a developmental disability. Thus, the only ownership classification that applicant can potentially satisfy is that of a non-profit organization which provides “services or facilities related to the goals of educational, social and physical development.” However, applicant does not fall within this classification for several reasons.

First, although applicant is a non-profit organization whose athletic programs are similar in kind to ones that further “physical development,” it failed to submit any credible evidence proving that its organizational documents contain a provision that waives or reduces any of the services fees that it charges. Section 15-65(c) plainly requires that applicant present “affirmative evidence” that its organizational documents contain such a waiver where, as here, the subject property is not “qualified, built, or financed under Section 202 of the National Housing Act of 1959.”⁹

Applicant proposes that its organizational documents contain appropriate waiver language because its Principles and Statutes enable it to award “scholarships” and

9. The relevant portion of Section 15-65(c) states that applicant is to provide “affirmative evidence that the home or facility or organization is an exempt organization under paragraph (3) of Section 501(c) of the Internal Revenue Code [26 U.S.C.A. Section 501] or its successor, and either: (i) *the bylaws of the home or facility or not-for-profit organization provide for a waiver or reduction, based on an individual's ability to pay, of any entrance fee, assignment of assets, or fee for services*, or, (ii) the home or facility is qualified, built, or financed under Section 202 of the National Housing Act of 1959, [12 U.S.C.A. Section 1701 *et seq.*] as amended.” 35 **ILCS** 200/15-65(c) [emphasis added].

provide financial assistance. Applicant Ex. No. 2, at p. 18. However, the Principles and Statutes expressly limit the class of persons who may receive such scholarships to “qualified members or class members of Turner organizations affiliated with the American Turners.” *Id.* They also explicitly state that financial assistance is to be used “to train Turner instructors,” and further, indicate that” “[t]he National Council is authorized to award scholarships to promising Turner members and/or Turner class members to any recognized college or university in the United States provided that the school selected by the applicant receives the approval of the American Turners Scholarship Committee.” *Id.*

None of this language remotely suggests that applicant waives or reduces its fees “based on an individual’s ability to pay,” as required by Section 15-65(c). Rather, it proves that the benefits of applicant’s financial assistance and scholarship programs are, consistent with its overall operations, reserved for applicant’s own members. Consequently, the language that creates these programs does not constitute the type of “waiver” mandated by Section 15-65(c). For this and all the above-stated reasons, applicant does not qualify as an exempt owner under that provision.

Even assuming, *arguendo*, that applicant did qualify as an exempt owner under Section 15-65(c), its athletic programs do not contribute to the “educational, social and physical development” of anyone except applicant’s own members. Therefore, as fully explained above, the subject property does not satisfy the exempt use requirement articulated in the first paragraph of Section 15-65.

The language “[a]ll property of the following is exempt *when actually and exclusively used for charitable or beneficent purposes ...*” (35 **ILCS** 200/15-65,

emphasis added) makes the exempt use requirement applicable to all subsections of Section 15-65, including Section 15-65(c). Because applicant's use of the subject property neither reduced governmental burdens nor benefited the public as a whole during the 2000 and 2001 assessment years, the subject property was not in exempt use throughout the period under review. For this and all the above-stated reasons, those portions of the Department's determinations denying the subject property exemption from 2000 and 2001 real estate taxes under 35 ILCS 200/15-65(c) should be affirmed.

The holdings in Decatur Sports Foundation v. Department of Revenue, 177 Ill. App.3d 696 (4th Dist. 1988) cited by applicant, and the recently-decided Arts Club of Chicago v. Illinois Department of Revenue, No. 1-01-1633 (1st Dist., Sept. 27, 2002), do not alter any of the above conclusions. The properties at issue in Decatur Sports Foundation and Arts Club were exempted from real estate taxation because they were "exclusively" or primarily used for "charitable" purposes that benefited the general public. Decatur Sports Foundation, *supra* at 712; Arts Club, *supra* at p. 9.

The same may not be said of this subject property, which had no purpose other than providing recreational facilities to that segment of applicant's members who chose to avail themselves of, and could afford to pay for, use of those facilities. Therefore, neither Decatur Sports Foundation nor Arts Club is controlling herein.

Based on the foregoing, I conclude that the subject property does not qualify for exemption from 2000 and 2001 real estate taxes under Sections 15-65(a) and 15-65(c) of the Property Tax Code. Therefore, all of the Department's initial determinations should be affirmed.

WHEREFORE, for all the aforementioned reasons, it is my recommendation that real estate identified by McHenry County Parcel Index Numbers 19-24-328-001-0040, 19-24-376-001-0060 and 19-24-327-005-0040 remain on the tax rolls for the 2000 and 2001 assessment years.

Date: 11/22/2002

Alan I. Marcus
Administrative Law Judge